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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

7 JAMES SPARKS an individual;
8 TIFFANY SPARKS, an individual,

9 Plaintiffs,

10 v.

11 AMERICAN HOME MORTGAGE
12 SERVICING, INC., et al.,

13 Defendants.

2:10-CV-1014 JCM (LRL)

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ORDER

16 Presently before this court is defendant American Home Mortgage Servicing, Inc.'s motion
17 to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. #5). Pursuant to the filing
18 of this motion, the court clerk issued a notice (doc. #5) indicating that plaintiff's response was due
19 on July 18, 2010. On July 29, 2010, the court granted a stipulation (doc #9), extending plaintiff's
20 time to respond until August 11, 2010.

21 Pursuant to Local Rule 7-2(b), an opposing party's failure to file a timely response to any
22 motion constitutes the party's consent to the granting of the motion and is proper grounds for
23 dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissing the
24 action, the district court is required to weigh several factors: "(1) the public's interest in expeditious
25 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
26 defendants; (4) the public policy favoring disposition of cases of their merits; and (5) the availability
27 of less drastic sanctions." *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v.*
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1 *Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)).

2 A review of the file indicates that as of September 3, 2010, the plaintiff has failed to respond
3 to defendant's motion to dismiss. Weighing the factors identified in *Ghazali*, the court finds
4 dismissal appropriate.

5 Accordingly,

6 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this action is dismissed
7 for failure of the plaintiff to file a timely response pursuant to Local Rule 7-2(b) and defendant
8 American Home Mortgage Servicing, Inc.'s motion to dismiss (doc. #5) is GRANTED.

9 DATED September 15, 2010.

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UNITED STATES DISTRICT JUDGE